

THIS REGULATION SUPERSEDES 2 VAC 20-51-10 THROUGH 2 VAC 20-51-210 REGULATIONS GOVERNING PESTICIDE APPLICATOR CERTIFICATION UNDER AUTHORITY OF VIRGINIA PESTICIDE CONTROL ACT ADOPTED BY THE PESTICIDE CONTROL BOARD ON JANUARY 14, 1999, EFFECTIVE MARCH 17, 1999

AUTHORITY: VIRGINIA PESTICIDE CONTROL ACT § 3.1-249.30 OF THE CODE OF VIRGINIA (1950), AS AMENDED

CHAPTER 51.

REGULATIONS GOVERNING PESTICIDE APPLICATOR CERTIFICATION UNDER AUTHORITY OF VIRGINIA PESTICIDE CONTROL ACT.

PART I.

DEFINITIONS.

2 VAC 20-51-10. Definitions.

The following words and terms when used in this chapter shall have the following meanings, unless the context clearly indicates otherwise. An asterisk or double asterisk following a definition indicates that the definition has been taken from the Virginia Pesticide Control Act, Article 1 (§ 3.1-249.27 et seq.) or Article 4 (§ 3.1-249.59 et seq.), respectively, of Chapter 14.1 of Title 3.1 of the Code of Virginia.

"Accident" means an unexpected, undesirable event, involving the use or presence of a pesticide, that adversely affects man or the environment.

"Act" means the Virginia Pesticide Control Act (§ 3.1-249.27 et seq. of the Code of Virginia).

~~"Adjuvant" means any substance added to a pesticide formulation to enhance the effect of the active ingredient.~~

"Agricultural commodity" means any plant or part thereof, or animal, or animal product, produced by a person, including farmers, ranchers, vineyardists, plant propagators, Christmas tree growers, aquaculturists, floriculturists, orchardists, foresters, nurserymen, wood treaters not for hire, or other comparable persons, primarily for sale, consumption, propagation, or other use by man or animals.*

"Board" means the Pesticide Control Board.*

"Board-approved training" means a course which includes, at a minimum, study and review of all the material contained in an edition used in Virginia of (i) a basic pesticide applicator certification training core manual and (ii) a certification training manual for each specific category pertaining to the type of pesticide application to be done.

"Certificate" means the document issued to a certified applicator or registered technician who has completed all the requirements of Article 3 (§ 3.1-249.51 et seq.) of Chapter 14.1 of Title 3.1 of the Code of Virginia.

"Certification" or "certified" means the recognition granted by the Pesticide Control Board to an applicator upon satisfactory completion of board-approved requirements.*

"Chemigation" means the application of any pesticide through an irrigation system.

"Commercial applicator" means any applicator who has completed the requirements as determined by the board, including appropriate training and time in service, to apply for a certification, and who uses or supervises the use of any pesticide for any purpose or on any property, other than as provided in the definition of private applicator.*

"Commercial applicator not for hire" means any commercial applicator who uses or supervises the use of pesticides as part of his job duties only on property owned or leased by him or his

employer. ~~This definition shall~~ It also applies to governmental employees who use or supervise the use of pesticides, whether on property owned or leased by them or their employers or not, in the performance of their official duties.

"Commissioner" means the Commissioner of Agriculture and Consumer Services.*

"Competent person" means a person having the demonstrated ability to perform the task to which he is assigned.

"Department" means the Department of Agriculture and Consumer Services.*

"Drift" means the physical movement of pesticide through the air at the time of pesticide application or soon thereafter from the target site to any nontarget or off-target site. Pesticide drift will not include movement of pesticides to nontarget or off-target sites caused by erosion, migration, volatility, or windblown soil particles that occurs after application unless specifically addressed on the pesticide product label with respect to drift control requirements.

"EPA" means the United States Environmental Protection Agency.

"Fumigant" means any substance which by itself or in combination with any other substance emits or liberates a gas or gases, fumes or vapors, ~~which gas or gases, fumes or vapors, when liberated and used,~~ that will destroy vermin, rodents, insects, and other pests, and are usually lethal, poisonous, noxious, or dangerous to human life.

"Fungicide" means any substance or mixture of substances intended for preventing, destroying, repelling, or mitigating any fungi or plant disease.*

"Herbicide" means any substance or mixture of substances intended for preventing, destroying, repelling or mitigating any weed.*

"Incident" means a definite and separate occurrence or event, involving the use or presence of a pesticide, that adversely affects man or the environment.

"Insecticide" means any substance or mixture of substances intended for preventing, destroying, repelling or mitigating any insects which may be present in any environment whatsoever.*

"Knowledge" means the possession and comprehension of pertinent facts, together with the ability to use them in dealing with specific problems and situations within the pesticide context.

"Label" means the written, printed, or graphic matter on, or attached to, the pesticide or device, or the immediate container thereof, and the outside container or wrapper of the retail package, if any, of the pesticide or device.*

"Labeling" means all labels and other written, printed, or graphic matter (i) upon the pesticide or device or any of its containers or wrappers, (ii) accompanying the pesticide or device at any time, or (iii) to which reference is made on the label or in literature accompanying the pesticide or device, except when accurate, nonmisleading reference is made to current official publications of the agricultural experiment station, the Virginia Polytechnic Institute and State University, the Department of Agriculture and Consumer Services, the State Board of Health, or similar federal institutions or other official agencies of the Commonwealth or other states when such states are authorized by law to conduct research in the field of pesticides.*

"Licensed" or "licensee" means those businesses which, when meeting the requirements established by the Pesticide Control Board, are issued a license to engage in the sale, storage, distribution, recommend the use, or application of pesticides in Virginia in exchange for compensation.*

"Marine antifoulant paint" means any compound, coating, paint or treatment applied or used for the purpose of controlling freshwater or marine fouling organisms on vessels.**

~~"Nontarget organism" means any living organism, including but not limited to animals, insects, and plants, other than the one against which the pesticide is intended to be applied.~~

"Pesticide" means (i) any substance or mixture of substances intended for preventing, destroying, repelling, or mitigating any insects, rodents, fungi, bacteria, weeds, or other forms of plant or animal life or viruses, except viruses on or in living man or other animals, which the commissioner shall declare to be a pest; (ii) any substance or mixture of substances intended for use as a plant regulator, defoliant, or desiccant; and (iii) any substance which is intended to become an active ingredient thereof.*

"Pesticide business" means any person engaged in the business of: distributing, applying or recommending the use of a product; or storing, selling, or offering for sale pesticides directly to the user. The term "pesticide business" does not include (i) wood treaters not for hire; (ii) seed treaters not for hire; (iii) operations which produce agricultural products unless the owners or operators of such operations described in clauses (i), (ii), and (iii) are engaged in the business of selling or offering for sale pesticides, or distributing pesticides to persons outside of that agricultural producing operation in connection with commercial transactions; or (iv) businesses exempted by regulations adopted by the board.*

"Private applicator" means an applicator who uses or supervises the use of any pesticide which is classified for restricted use for purposes of producing any agricultural commodity on property owned or rented by him or his employer or, if applied without compensation other than trading of

personal services between producers of agricultural commodities, on the property of another person.*

~~"Reentry interval" as noted on the pesticide label, means the amount of time which must elapse between the time of a pesticide application and the time when it is safe for a person to enter the treated area without label required personal protective equipment.~~

"Registered technician" means an individual who renders services similar to those of a certified commercial applicator, but who has not completed all the training or time in service requirements to be eligible for examination for certification as a commercial applicator and is limited to application of general use pesticides. However, if he applies restricted use pesticides he shall do so only under the direct supervision of a certified commercial applicator.*

"Registered technician not for hire" means any registered technician who uses or supervises the use of pesticides as part of his job duties only on property owned or leased by him or his employer. It also applies to governmental employees who use or supervise the use of pesticides, whether on property owned or leased by them or their employers or not, in the performance of their official duties.

"Repeat violation" means another violation following the first violation of the same provision of the Virginia Pesticide Control Act or the federal Insecticide, Fungicide, and Rodenticide Act (7 USC § 136 et seq.), or regulations adopted pursuant thereto, committed within a three-year period commencing with the date of official notification of the first violation of the provision.

"Restricted entry interval" means the time after the end of a pesticide application during which entry into the treated area is restricted.

"Restricted use pesticide" or "pesticide classified for restricted use" means any pesticide classified for restricted use by the administrator of the EPA under the provisions of 1947 (7 USC § 3(d)(1)(c)) of the federal Insecticide, Fungicide, and Rodenticide Act (as amended).

"Rodenticide" means any substance or mixture of substances intended for preventing, destroying, repelling, or mitigating rodents or any other vertebrate animal which the commissioner shall declare to be a pest.*

~~"Synergism" means the interaction of two or more active ingredients in a pesticide formulation which produce a total pesticidal effect that is greater than the sum of the ingredients.~~

"Tributyltin compounds" means any compound having three normal butyl groups attached to a tin atom and with or without an anion such as chloride, fluoride, or oxide.**

"Under the direct supervision of" means the act or process whereby the application of a pesticide is made by a competent person acting under the instructions and control of a certified applicator who is responsible for the actions of that person.*

“Under the direct on-site supervision of” means the act or process whereby the application of a pesticide is made by a competent person acting under the instructions and control of a certified applicator who is responsible for the actions of that person and is physically present on the property upon which the ~~pesticides are~~ pesticide is being applied, and is in constant visual contact with the person applying the pesticide.

~~"Unreasonable adverse effects on the environment" means any unreasonable risk to man or the environment, taking into account the economic, social, and environmental costs and benefits of the use of any pesticide.*~~

“Use” means the employment of a pesticide for the purposes of (i) preventing, destroying, repelling, or mitigating any pest or (ii) regulating plant growth, causing defoliation or desiccation of plants. The term “use” shall include application or mixing, and shall include handling or transfer of a pesticide after the manufacturer’s original seal is broken. The term “use” shall also include any act with respect to a particular pesticide which is consistent with the label directions for that particular pesticide.*

"Vessel" means every description of watercraft, other than a seaplane, used or capable of being used as a means of transportation on the water, whether self-propelled or otherwise, and includes barges and tugs.**

PART II.

CERTIFICATION OF PESTICIDE APPLICATORS.

2 VAC 20-51-20. General requirements for certification.

A. The following persons must be certified as pesticide applicators:

1. Commercial applicators;
2. Registered technicians; and
3. Private applicators.

B. Commercial applicators not for hire must be certified only when using any pesticide in the following areas except as noted in subsection C of this section:

1. Areas open to the general public at day-care facilities, educational institutions, health care facilities, and convalescent facilities;
2. Areas where open food is stored, processed, or sold; and

3. Recreational lands over five acres in size.

C. Employees of local, state, and federal governmental agencies who use or supervise the use of any pesticides on any area in the performance of their official duties must be certified as either commercial applicators not for hire or registered technicians, but they are exempt from any certification fees.

D. All persons desiring certification as pesticide applicators must:

1. Complete board-approved training appropriate for the desired classification; ~~and~~

2. Submit a completed application to the Commissioner; and

2. 3. Pass required examination(s).

a. Applicants who do not pass the examination on their first attempt are eligible to be reexamined for the same category 10 days from the date of the first examination.

b. Applicants who fail on the second or subsequent attempts must wait 30 days from the date of the last examination before being reexamined in the same category.

c. Applicants requesting reexamination must resubmit a completed application to the commissioner or his duly authorized agent and pay the nonrefundable applicator certification fee ~~again.~~ as determined by 2 VAC 20-30, Rules and Regulations Governing the Pesticide Fees Charged by the Department of Agriculture and Consumer Services Under the Virginia Pesticide Control Act.

E. Persons with a history of repeat violations of federal or state pesticide laws or whose certification or pesticide business license has been revoked within the two-year period

immediately prior to application are not eligible for certification. Such persons may appear before the board to show why they should be granted certification as outlined under provisions of § 3.1-249.63.D. of the Code of Virginia.

F. Applicants for certification cannot engage in the activity for which they are requesting certification, unless participating in supervised direct on-site training, until certification has been issued by the commissioner. Commercial applicators may not apply pesticides in any category or subcategory activity until they have passed the category-specific examination and obtained the appropriate certification.

G. A commercial or private applicator or registered technician may request a duplicate of the certification card if the applicator's or technician's card has been lost, stolen, mutilated or destroyed. The department shall issue a duplicate card to the applicator or technician upon payment of the costs of duplication.

2 VAC 20-51-30. Specific certification requirements for commercial applicators.

A. In addition to the general requirements listed in 2 VAC 20-51-20, applicants for commercial applicator certification shall meet the following requirements:

1. Certification as a registered technician, as well as employment as a registered technician for at least a year; or
2. One year of education, training, or experience in a pesticide related field which provides the equivalent practical knowledge of proper pesticide use required of a registered technician.

B. The application process for commercial applicators is as follows:

1. The application must be in writing to the commissioner; and

2. The application must contain:
 - a. Name;
 - b. Principal business address in the Commonwealth and elsewhere;
 - c. Qualifications and proposed operations; and
 - d. Classification(s) desired.

Individuals seeking certification as commercial applicators must pay a fee as determined by ~~regulations promulgated by the Pesticide Control Board~~ 2 VAC 20-30 Rules and Regulations Governing the Pesticide Fees Charged by the Department of Agriculture and Consumer Services Under the Virginia Pesticide Control Act.

C. Applicants shall, within 90 days after submitting the application and paying the fee, report to an authorized testing location and take the required examinations.

D. Aerial pesticide application applicants must meet the requirements of the Federal Aviation Agency, the Department of Aviation of the Commonwealth, and any other applicable federal or state laws or regulations to operate aerial equipment.

2 VAC 20-51-40. Specific certification requirements for private applicators.

A. Each applicant for a private applicator's certificate shall apply to the commissioner and then report to an authorized testing location within 90 days and take an examination for each certification category, specified in 2 VAC 20-51-80, applicable to his operation. The application shall contain the applicant's name, address and classification desired for certification.

B. Persons who cannot read or understand labels ~~will~~ shall not be certified as private applicators unless they demonstrate competence to apply restricted use pesticides on their own properties.

After consulting the appropriate Virginia Cooperative Extension ~~Service~~ agent, a department pesticide investigator may recommend that the board grant a waiver of the literacy requirement. Persons certified under this waiver shall obtain certification in the categories of limited certificate or single product certification as described in 2 VAC 20-51-80. ~~Recommendations shall be based upon personal knowledge of the individuals' competence to apply restricted use pesticides on their own properties.~~

2 VAC 20-51-50. Certification procedures for registered technicians.

A. In addition to the general requirements listed in 2 VAC 20-51-20, individuals seeking certification as registered technicians must:

1. Receive on-the-job training in the proper application of pesticides under the direct on-site supervision of a certified commercial applicator for at least 20 hours during the six-month period prior to applying for certification.
2. Complete at least 20 hours of board-approved training;
3. Submit an application form with the fee established by regulations of the Pesticide Control Board; and
4. ~~Take~~ Pass the examination within 90 days after an individual is hired or transferred into a position where duties and functions involve the commercial use of pesticides. ~~submitting the application and paying the fee.~~ Individuals not passing the examination must follow the procedures outlined in 2VAC 20-51-20.D.3.

B. ~~Certified commercial applicators may apply to the commissioner, or his duly authorized agent, in writing, for authorization to proctor the registered technician exam. Authorized proctors may administer and grade the examinations, and shall notify the commissioner, or his duly authorized agent, of the grade received by the applicant. Failure to safeguard examination materials or follow testing procedures shall result in revocation of authority to proctor the~~

~~registered technician examination.~~ Before Registered Technicians begin working in any application category or subcategory that is different from the category in which they received their original training, they shall receive additional training from a Commercial Applicator in the following aspects of pesticide application as it relates to the proposed category or subcategory of work:

1. pesticides to be used, including reading and understanding the label
2. application equipment and techniques
3. pests to be controlled
4. personal protective equipment and/or clothing
5. environmental concerns, including storage and disposal of pesticides applied

The Commercial Applicator providing training to a Registered Technician shall be certified in the category or subcategory for which he is providing the training and shall provide proof to the Department of such training on forms provided by the Department. Such forms must be received by the Department within ten calendar days of the completion of such training.

2 VAC 20-51-60. Persons exempt from certification.

The following persons are exempt from certification:

1. Persons conducting laboratory research involving restricted use pesticides;
2. Doctors of medicine or doctors of veterinary medicine applying pesticides as drugs or medication during the course of their practice, or to control pests in corpses;
3. Persons who use or supervise the use of nonrestricted use pesticides as part of their duties only on properties owned or leased by their employers, except those persons identified in 2 VAC 20-51-20 B;

4. Persons who provide janitorial or cleaning services using nonrestricted use sanitizers, disinfectants, and germicides;
5. Painters who apply restricted use marine antifoulant paint under the direct supervision of a commercial applicator. One commercial applicator shall be present for every eight painters;
6. Forestry applicators standing on the ground who apply general use herbicides for forest vegetation control and tree thinning under the direct on-site supervision of a commercial applicator. One commercial applicator shall be present for every eight forestry applicators and be within voice contact of and no more than 200 feet from such applicators; and
7. Individuals engaged in the training required for certification while under the direct on-site supervision of a certified applicator.

PART III.

CATEGORIES OF PESTICIDE APPLICATOR CERTIFICATION.

2 VAC 20-51-70. Categories for commercial applicator certification.

A. Commercial applicators must be certified in one or more of the following commercial applicator categories or subcategories:

1. Agricultural pest control.
 - a. Agricultural plant pest control. This subcategory is for commercial applicators who will be using or supervising the use of pesticides in production of agricultural crops, or on grasslands, or noncrop agricultural lands.
 - b. Agricultural animal pest control. This subcategory is for commercial applicators who will be using or supervising the use of pesticides on agriculturally related animals.

- c. Fumigation of soil and agricultural products. This subcategory is for commercial applicators who will be using or supervising the use of pesticides for soil fumigation in production of an agricultural commodity and the application of pesticides for fumigation of agricultural products. Certification in this subcategory requires concurrent certification in the agricultural plant pest control category.
 - d. Chemigation. This subcategory is for commercial applicators who will be using or supervising the use of pesticides through an irrigation system. Certification in this subcategory requires concurrent certification in the agricultural plant pest control category.
2. Forest pest control. This category is for commercial applicators who will be using or supervising the use of pesticides in forests, forest nurseries, and seed orchards.
3. Ornamental and turf pest control.
 - a. Ornamental pest control. This subcategory is for commercial applicators who will be using or supervising the use of pesticides in the maintenance and production of ornamental trees, shrubs, and flowers in and out-of-doors.
 - b. Turf pest control. This subcategory is for commercial applicators who will be using or supervising the use of pesticides in the production and maintenance of turf, including, but not limited to, turf in golf courses, residential lawns, parks, and cemeteries.
4. Seed treatment (excluding fumigation). This category is for commercial applicators who will be using or supervising the use of pesticides on seeds.
5. Aquatic pest control.

- a. Aquatic pest control - general. This subcategory is for commercial applicators who will be using or supervising the use of pesticides in or on standing or running water, for the express purpose of controlling pests. This excludes applicators engaged in public health related activities included in subdivision 8 of this subsection, public health pest control.
 - b. Marine antifoulant paints. This subcategory is for commercial applicators who will be using or supervising the use of marine antifoulant paints containing tributyltin or other restricted use pesticides.
6. Right-of-way pest control. This category is for commercial applicators who will be using or supervising the use of pesticides in the maintenance of public rights-of-way and in the maintenance of fence lines, structural perimeters or other similar areas.
 7. Industrial, institutional, structural, and health-related pest control.
 - a. General pest control (excluding fumigation). This subcategory is for commercial applicators who will be using or supervising the use of pesticides to control household type pests, pests that inhabit or infest structures, stored products, and residential food preparation areas, and pests capable of infesting or contaminating foods and foodstuffs at any stage of processing facilities.
 - b. Wood-destroying pest control (excluding fumigation). This subcategory is for commercial applicators who will be using or supervising the use of pesticides to control organisms that destroy structures made of wood.
 - c. Fumigation. This subcategory is for commercial applicators who will be using or supervising the use of fumigant-type pesticides.

- d. Vertebrate pest control (excluding structural invaders). This subcategory is for commercial applicators who will be using or supervising the use of pesticides to control vertebrate pest animals.
 - e. Sewer root pest control. This subcategory is for commercial applicators who use pesticides for sewer line root control.
8. Public health pest control. This category is for commercial applicators who will be using or supervising the use of pesticides for the management and control of pests having medical and public health significance.
9. Regulatory pest control. This category is for federal, state, and local governmental employee applicators who will be using or supervising the use of pesticides in the control of regulated pests.
10. Demonstration and research pest control. This category is for commercial applicators who will be demonstrating the proper use and techniques of application of pesticides (including classroom demonstration), or who will be supervising such demonstration. It also includes applicators who will be conducting pesticide research on greenhouse or field plots.
11. Aerial pesticide application. This category is for commercial applicators who will be using or supervising the use of any pesticide applied by fixed- or rotary-wing aircraft.
12. Wood preservation and wood product treatment. This category is for commercial applicators who will be using or supervising the use of pesticides at treating plants and sawmills for preservative treatment of wood and wood products.

13. Miscellaneous. This category is to be used to designate categories or subcategories of commercial applicators using specific pesticides and or uses for which the U.S. EPA may mandate certification in order to allow for the pesticide or use.

B. A commercial applicator certified in one category and seeking initial certification in one or more additional categories shall meet the certification requirements of each of the new categories in which he desires certification.

2 VAC 20-51-80. Categories for private applicator certification.

Private applicators who apply or supervise the application of restricted use pesticides shall be certified in one or more of the following categories:

1. Food, fiber, forestry products, and commodity production. Includes private applicators who use or supervise the use of restricted use pesticides: in the production of agricultural crops, including fumigation and chemigation; forestry products; on animals; in places where animals are confined; for the control of vertebrate pests of agricultural crops and livestock animals; in the production of agricultural commodities; and for the fumigation of agricultural products.
2. Ornamental production. Includes private applicators who use or supervise the use of restricted use pesticides to control pests: in tree nurseries; shrub nurseries; ornamental plant nurseries; flower nurseries; in greenhouses used for breeding and growing ornamental plants; in irrigation systems; and in ornamental production using fumigants.
3. Limited certificate--single product/single use. Includes private applicator applicants who are seeking authorization to apply a single restricted use pesticide for a single identified

purpose. This category is intended for limited use under special or emergency circumstances as identified by the board on a case-by-case basis.

4. Single product certification. Includes private applicator applicants who are seeking authorization to apply a single identified restricted use product, or related restricted use products with the same active ingredient and with a similar formulation and use. This category is intended for limited use under special or emergency circumstances as identified by the board.

PART IV.

KNOWLEDGE REQUIRED FOR CERTIFICATION OF PESTICIDE APPLICATORS.

2 VAC 20-51-90. Determination of general knowledge and qualifications for private and commercial applicators and registered technicians.

A. Applicants shall be tested on their knowledge and qualifications concerning the use and handling of pesticides. The examination will test the applicants' general knowledge required for all categories, and the additional knowledge specifically required for each category or subcategory in which an applicator desires to be certified.

B. All applicants for certification as private or commercial applicators or registered technicians shall demonstrate practical knowledge of the principles and practices of pest control and the safe use of pesticides, as contained in a basic pesticide applicator certification training core manual. Testing will be based on problems and situations in the following areas:

1. Federal and Commonwealth of Virginia pesticide laws and regulations;
2. Understanding and interpreting pesticide labels;

3. Handling of accidents and incidents;
4. Proper methods of storing, mixing/loading, transporting, handling, applying, and disposing of pesticides;
5. Safety and health, including proper use of personal protective equipment;
6. Potential adverse effects caused by the application of pesticides under various climatic or environmental conditions, such as drift from the target area, pesticide run-off, ground water and drinking water contamination, and hazard to endangered species; and
7. Recognizing common pests and general pest biology.

2 VAC 20-51-100. Specific knowledge required for the categories of commercial applicators.

Applicants for commercial applicator certification shall possess the skills and knowledge associated with the chosen category(s) as they pertain to those items listed in 2 VAC 20-51-90 B 1 through 6, including recognizing category specific pests and their biology as contained in a the appropriate Virginia category specific training manual(s).

2 VAC 20-51-110. Specific knowledge required for the categories of private applicators.

Applicants for private applicator certification shall possess the skills and knowledge associated with the chosen category(s) as they pertain to those items listed in 2 VAC 20-51-90 B 1 through 6, including recognizing category specific pests and their biology as contained in a Virginia category specific certification training manual(s).

2 VAC 20-51-120. Specific knowledge required for registered technicians.

In addition to the skills and knowledge required in 2 VAC 20-51-90 B 1 through 6, the applicant shall obtain the required amount of on-the-job training as discussed in 2 VAC 20-51-50.

PART V.

RENEWAL OF CERTIFICATION AND CERTIFICATES.

2 VAC 20-51-130. Renewal of certification.

A. Any certified pesticide applicator or registered technician who desires to renew his certification shall do so biennially for the category or subcategory for which he is certified. All applicators must first attend board-approved recertification course(s) and submit proof of attendance at such courses, or be reexamined in basic pesticide safety and the categories desired for recertification. In addition to the above requirement, commercial applicators and registered technicians shall also pay the biennial certificate fee and submit an application for renewal before the commissioner will renew their certification.

B. Certified applicators may accumulate up to four years of credit by attending board-approved recertification courses.

C. Upon expiration of certification, the applicator's certificate shall become invalid. Any pesticide applicator or registered technician who desires to renew his certification, but fails to do so within 60 days after its expiration, shall be reexamined.

2 VAC 20-51-140. Reexamination.

Reexamination or special examination will be required by the board of any commercial applicator or registered technician under the following circumstances:

1. Certificate has been suspended or revoked;
2. Significant technological advances have occurred in the category or subcategory for which the applicator or registered technician has been certified, requiring additional knowledge;

3. Additional standards established by the EPA require reexamination;
4. Commercial applicator or registered technician desires certification in an additional category; or
5. Regulations require reexamination.

PART VI.

SUSPENSION AND REVOCATION OF CERTIFICATES.

2 VAC 20-51-150. Summary suspension by commissioner.

A. The commissioner may summarily suspend the certificate of any person without a hearing if he finds there is any substantial danger, or threat of substantial danger, to the public health, safety, or environment which warrants the summary suspension. The commissioner shall schedule a hearing for a date not exceeding five working days after the date of the summary suspension.

B. No person whose certificate has been suspended may engage in the activity for which he had been certified.

2 VAC 20-51-160. Denial, suspension, revocation, or modification of a certificate by the board.

A. ~~Any of the violative acts listed under § 3.1-249.63 C of the Code of Virginia shall constitute grounds for revocation by the board of a certificate.~~ The Board may, after opportunity for a hearing, deny, suspend, revoke or modify a certificate upon any violation of any act set out in Code Section 3.1-249.63 (C).

B. ~~The board shall suspend the license or certificate of an individual if a civil penalty issued to the person is not paid within 60 days of issuance unless the business or person challenges such civil penalty pursuant to § 3.1-249.70 F of the Code of Virginia.~~ If the Board imposes a civil

penalty upon a person and such civil penalty is not paid within 60 days thereof, the certificate of such person shall automatically be suspended until payment in full is made. If the person appeals the Board's order imposing the civil penalty, then the person may forward the proposed amount of the civil penalty to the Commissioner's office for placement in an interest-bearing trust account in the State Treasurer's office. Upon such an amount being held, the suspension shall not be imposed or shall be lifted, as the case may be. This provision relates only to a suspension caused by a failure to pay the civil penalty and does not affect any suspension or revocation of a certificate for any other reason.

PART VII.

REPORTING OF PESTICIDE ACCIDENTS, INCIDENTS, OR LOSS.

2 VAC 20-51-170. Reporting of pesticide accidents and incidents.

A. Commercial or private applicators or registered technicians shall report any pesticide accident or incident in which they are involved that constitutes a threat to any person, to public health or safety, or to the environment, as a result of the use or presence of any pesticide. The accident or incident shall be reported whether or not a restricted use pesticide is involved.

B. The applicator shall make the initial notification to the department's Office of Pesticide Services by telephone within a reasonable time, not to exceed 48 hours after the accident or incident occurrence, should circumstances prevent immediate notification. The applicator shall prepare and submit a full written report of the accident or incident to the Office of Pesticide Services within 10 days after the initial notification.

C. When the accident or incident involves a discharge or spillage of a pesticide, the applicator shall contact the department for guidance to determine whether the discharged or spilled amount is a reportable quantity.

D. The applicator shall make the initial notification to the department's Office of Pesticide Services by telephone within a reasonable time, not to exceed 48 hours after the accident or incident occurrence, should circumstances prevent immediate notification. The applicator shall prepare and submit a written report of the accident or incident to the Office of Pesticide Services within 10 working days after the initial notification. The report shall include the following:

1. Name of individuals involved in accident or incident;
2. Name of pesticide involved;
3. Quantity of pesticide spilled, and containment procedures;
4. Time, date, and location of accident or incident;
5. Mitigating actions taken; and
6. Name (or description if unnamed) and location of bodies of water nearby; where contamination of such bodies of water could reasonably be expected to occur due to natural or manmade actions.

PART VIII.

RECIPROCAL AGREEMENT.

2 VAC 20-51-180. Issuance of a certificate on a reciprocal basis.

A. A person who is certified by another state or by a federal agency may make written application to the commissioner, or his duly authorized agent, for issuance of a certificate on a

reciprocal basis without examination, in accordance with § 3.1-249.57 of the Code of Virginia. Along with his written application, an applicant shall either (i) present an original certificate issued by the state of origin or issued by a federal agency or (ii) request that the state of origin or federal agency send an attested copy of the applicant's certification directly to the commissioner or his duly authorized agent.

The applicant shall either include a document granting power of attorney to a resident of Virginia to receive process or provide proof that the applicant has appointed a registered agent under the laws of the Commonwealth. Reciprocal certification shall not be granted based on reciprocal certification issued in another state.

B. Any certificate issued on a reciprocal basis may be suspended in the same manner and on the same grounds as a Virginia certificate pursuant to the provisions of Chapter 14.1 (§ 3.1-249.27 et seq.) of Title 3.1 of the Code of Virginia. A certificate issued on a reciprocal basis may also be suspended if the nonresident's original certificate or federal certification is suspended or revoked.

2 VAC 20-51-190. Reciprocal recertification.

Reciprocal recertification shall be granted to out-of-state applicators if they: (i) maintain certification in their home state; (ii) provide proof of current certification to the commissioner prior to the date of Virginia certification expiration; (iii) are currently certified in a state that grants reciprocal recertification to Virginia applicators in like categories; and (iv) have met all other Virginia requirements for recertification.

PART IX.
RECORDKEEPING.

2 VAC 20-51-200. General recordkeeping requirements for commercial applicators not for hire-
and registered technicians not for hire.

A. Commercial applicators not for hire and registered technicians not for hire being exempt from the pesticide business license requirement of the board and the recordkeeping requirements under this license, are required to maintain pesticide application records as prescribed in this chapter. These records shall be maintained by the commercial applicator not for hire and the registered technician not for hire for a period of two years.

B. Records governed by this regulation shall be made available for inspection by the commissioner, or his duly authorized agent, during normal business hours upon written request. Records not readily available shall be submitted to the commissioner within 72 hours, if so requested in writing.

C. Persons possessing records governed by this part shall fully comply with the requirements contained in 7 USC § 136f and regulations adopted pursuant thereto.

2 VAC 20-51-210. Specific recordkeeping requirements for commercial applicators not for hire
and registered technicians not for hire.

Commercial applicators not for hire and registered technicians not for hire shall maintain a record of each ~~restricted-use~~ pesticide applied, containing the following:

1. Name of property owner, address or location, and, as applicable, phone number of the site of application;

2. Name and certification number (or certification number of the supervising certified applicator) of the person making the application;
3. Day, month, and year of application;
4. Type of plants, crops, animals, or sites treated and principle pests to be controlled;
5. Acreage, area, or number of plants or animals treated;
6. Brand name or common product name of pesticide used;
7. EPA registration number;
8. Amounts of pesticide concentrate and amount of diluent used, by weight or volume, in mixture applied; and
9. Type of application equipment used.

FORMS

Record of Required Additional Registered Technician Training (proposed)

Commercial Pesticide Applicator Certification Application - A, Form VDACS-07211 (eff. 11/01).

Pesticide Registered Technician Application, Form VDACS-07212 (eff. 11/01).

Private Pesticide Applicator Request for Authorization to Take Pesticide Applicator Examination at Department of Motor Vehicles Customer Service Center (eff. 12/98).

Application for Reciprocal Pesticide Applicator Certificate, Form VDACS-07210 (eff. 07/00).

Power of Attorney (not dated).

Commercial Pesticide Applicator Request for Authorization to Take Pesticide Applicator Examination - B, Form VDACS-07218 (eff. 11/01).

Commercial Pesticide Applicator Certification Exam bubble answer sheet.

Private Pesticide Applicator Certification Exam bubble answer sheet.

Virginia Registered Technician Certification Examination Answer Sheet (eff. 2/98).

Not-For-Hire Virginia Registered Technician Certification Examination Answer Sheet (eff. 2/98).